IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE ELIPE DHARMA RAO

WRIT PETITION No. 25045 of 2000

Between:

1. Mrs.C.Subada Reddy
2. M.Sridhar Rep by its Their G.P.A. holder, M.Ravindranath

Reddy s/o Venkat Reddy, R/o. 801, Bhanu Apartment,

Ameerpet, Hyderabad.

..... PETITIONERS

AND

1. The District Collector
   Hyderabad.
2. The Commissioner of Survey & Settlements,
   Government of A.P. Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a Writ, Order or orders or direction in the nature of Mandamus by declaring the action of interference in the construction carried by the petitioners 1 & 2 in property No.3 admeasuring 435 sq. yards in Survey No. 129 part of House No. 8-2-322 Road No. 3, Banjara Hills,Hyuderabad, in pursuance to permit No. 163/24 dt. 11.9.2000 issued by the Commissioner M.C.H and threat of demolish is illegal, arbitrary and void without jurisdiction and pass such other order or orders as this Hon'ble Court may deem fit

and proper in the circumstance of the case.

Counsel for the Petitioner: MR.G.PEDDA BABU

Counsel for the Respondent No.1&2: GP FOR REVENUE

The Court made the following :

ORDER:

The case of the petitioners is that they are the absolute owners and possessors of Plot No.3, admeasuring 435 Sq. Yards in Sy. No.129 forming part of H.No.s 8-2-322, Banjara Bills, Hyderabad, which was purchased from Miss Ramayamma through registered sale deed document No.12 of 1993 on 28.12.1992 and their vendor got the property under a Will executed by S.Sambhu Prasad, her father in respect of an extent of 2596.04 Sq. yards forming part of H.No.8-2-322 in Sy.No. 129, Banjara Hills, Hyderabad. The said Sambhu Prasad, purchased the said house from his vendor Rani Amba Bai, Raja Sham Raj Rajavanth Bhadur, who got the said property from their vendor Syed Mohammad Hussain Zafari. It is stated that this property was subjected matter of suit CS No.18 of 1958 as item No.53 in Schedule E, on the original side of this court, for partition. The High Court, vide judgment dated 15.12.1967 held that Rani Amba Bai and another are the absolute owners of the property which was confirmed in OSA No. 4 of 1963. That's how, the petitioners are owners and possessors of the subject matter of the writ petition.

The petitioners submitted an application under Sec. 428 and 433 of the Hyderabad Municipal Corporation Act for the construction of ground, first and second floors, the Commissioner, Municipal Corporation of Hyderabad, having received application, plan and copies of the documents, accorded sanction for construction under permit No. 163/24 dated 11.9.2000. Thereafter the respondents 1 and 2 viz., the District Collector, Hyderabad and Commissioner, Survey & Settlements, Hyderabad, objected for the grant of permit No. 163/24 dated 11.9.2000, on the ground that the property is a Government Poramboke land and after verifying the title deeds and

link documents, the Commissioner rejected the contention of the respondents and accorded sanction to the petitioners. It is averred that the respondents are continuously interfering and threatening to demolish the construction of the petitioners. It is further averred that on 12.12.2000, the subordinates of the respondents came to the premises and threatened to demolish the structures. Therefore, the petitioners filed the present writ petition.

In response to the rule nisi, the respondent No.1 filed counter affidavit, while denying the allegations made in the writ affidavit, in para 9, it is stated that to avoid illegal building permission over the government land which is meant for public purpose, the Government has issued instructions to the Commissioner, Municipal Corporation of Hyderabad to insist for No Objection Certificate from Revenue Department for processing any application for building permission, therefore, the petitioners have applied for No Objection Certificate by the Collector, Hyderabad for the land in question, which was rejected as it was classified as Government Poramboke in town survey records. The averment that the subordinates of the respondents have threatened to demolish the constructions of the petitioners is baseless and is denied.

As can be gathered from the facts and circumstances of the case, there is not even a piece of paper to show that the respondents or their subordinates have threatened to demolish the constructions raised in the land, subject matter of the writ petition. A plain reading of the pleadings of the parties, abundantly makes it clear that there is dispute with regard to the title of the property. Having regard to these disputed facts, I deem it appropriate to direct the respondents to follow due process of law before they initiate any action for demolition of the construction, being carried out in pursuance of permit No. 163/24 dated 11.9.2000. With these directions, the writ petition stands disposed of. No order as to costs.

Elipe Dharma Rao, J.

July 7, 2005

MAS
To

1. The District Collector
   Hyderabad.
2. The Commissioner of Survey & Settlements,
   Government of A.P. Hyderabad.

3. Two CCs to the Govt. Pleader for Revenue, A.P. High Court

Buildings, Hyderabad.

4. 2 CD copies

*Form-NIC-OGS/WP{**JPK**}*